



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF AGING SERVICES

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[www.nj.gov/humanservices](http://www.nj.gov/humanservices)

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**DATE:** November 1, 2015      **NUMBER:** 2015-01: V-1  
**TYPE:** Policy Instruction      **SUPERSEDES:** 2011-32: V-5  
**SUBJECT:** Room and Board Supplementation      **DISTRIBUTION CODE:** I a; IV b, c; V d, f, g, k, o; VI a, b, e; VII a, f

**EFFECTIVE:** Immediately

**APPLICABILITY:** Medicaid approved Assisted Living Residences and Comprehensive Personal Care Homes

**BACKGROUND:** In April 2001, the Department of Health and Senior Services (DHSS) announced a policy that would allow supplementation of room and board costs of a participant in the Medicaid Waiver then called the Enhanced Community Options program. Since that time, supplementation has continued to be permitted for an upgrade of accommodations in either an Assisted Living Residence or a Comprehensive Personal Care Home for participants in the renamed Global Options for Long-Term Care Medicaid Waiver. In July of 2014 the state terminated the Global Options waiver and replaced it with the Comprehensive Medicaid Waiver. Supplementation for services paid for through Medicaid remains strictly prohibited.

The Department of Human Services (DHS), Division of Aging Services (DoAS) is reissuing the policy on room and board supplementation with revisions to update the approved protocols and ensure all Assisted Living (AL) facilities are aware of the appropriate procedures necessary to pursue the Room and Board Supplementation option.

Additional guidance is provided for Medicaid residents as supplementation will now affect their financial determination for eligibility.

**PURPOSE:** To establish the criteria under which an Assisted Living facility may accept Room and Board Supplementation on behalf of a Medicaid Waiver participant.

AL facilities are advised to pay particular attention to the financial implications of supplementation for persons receiving Supplemental Security Income (SSI) benefits as well as Medicaid benefits.

**POLICY:**

Availability of Room and Board Supplementation shall not be a condition of admission for prospective ALR or CPCH residents.

Medicaid payment is payment in full, exclusive of Room and Board Supplementation, for the services defined in the Plan of Care. There shall be no supplementation of services.

The individual participant, not Medicaid, pays for room and board in Assisted Living facilities. However, the DHS defines the room and board rate that may be charged to a Medicaid participant. This rate is the amount of federal SSI plus the state supplement reduced by the Monthly Needs Allowance.

The Cost Share liability of the Medicaid participant may change due to the availability of Room and Board Supplementation. AL facilities shall deduct the participant's monthly cost share amount, as calculated by the County Welfare Agency (CWA), from the monthly Medicaid (services) billings submitted to the resident's Managed Care Organization (MCO).

A Medicaid provider must specify the type or types of accommodation that will be available to the Medicaid participant for payment of the Department defined room and board rate. This information will be made available when submitting a Medicaid Provider application. Current Medicaid providers shall submit this information prior to accepting any Room and Board Supplement on behalf of a Medicaid participant.

The amount of Supplementation shall be no more than the dollar amount difference between the facility's published fees for the unit to which the person is being upgraded and the facility's published fee submitted to Medicaid Provider Enrollment.

Supplementation may involve any accommodation within the AL facility.

Supplementation is a transaction between the facility and the third party (i.e. participant's family). The third party, the Medicaid participant, and the State DoAS shall be informed of this transaction.

Medicaid participants admitted after the effective date of this policy, as well as current residents, may accept Room and Board Supplementation from a third-party.

**PROTOCOLS:** Offering the option of paying Room and Board Supplementation at an AL facility is voluntary. If an AL facility wants to exercise this option for its residents, the AL facility must complete and submit a form entitled the Provider Enrollment Statement of Intent to Accept Supplementation (**LTC-37**) – formerly known as an Appendix B form or GO-4, to the DoAS.

Thereafter, all cases of supplementation made with third parties on behalf of an individual Medicaid participant, are to be documented by the AL facility on the designated Supplementation form entitled the Notification of Room and Board Supplementation (**LTC-38**) – formerly known as an Appendix A form, or GO-5 and submitted to DoAS.

**Attached to this Policy Instruction please find the authorized operational procedures for Room and Board supplementation in their entirety.**

**JUSTIFICATION:** 42 Code of Federal Regulation (CFR) §441.310(a)(2) prohibits making Medicaid payments for room and board (i.e., housing cost/rent, food, and utility costs) except when the participant is receiving institutional respite outside his/her private residence. CFR prohibits making Medicaid payments for room and board costs when a Medicaid participant lives in an Assisted Living setting (i.e., ALR, CPCH, Assisted Living Program in Subsidized Housing, or Adult Family Care setting). For purposes of this provision, the term “board” means three meals a day or any other full nutritional regime.

For continued federal approval of the Medicaid Waiver, the State must describe the methodology that is used to exclude Medicaid payment for room and board in Assisted Living settings. Acceptable methods to exclude the costs of room and board may include separating room and board costs from service costs in determining payment rates or basing payments solely on service costs.

The State must assure the federal Centers for Medicare and Medicaid Services (CMS) that payments are not made for room and board except as explicitly allowed in 42 CFR §441.310(a)(2).

When Medicaid Waiver services are provided in residential settings (i.e. Assisted Living facilities) that are not the participant’s own home or the family home, the state must describe the methodology that is employed to exclude the costs of room and board from the payments for the services furnished in such living arrangements (i.e., ensure that Medicaid payment is only made for the service component).

Medicaid income guidelines are found under N.J.A.C. § 10:71-5.4 Includable income. Section 12 of this regulation establishes the amount to be charged to the individual for “in-kind” support and section 13 iii details how it is applied for nonmedical facilities such as assisted living facilities.



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Nancy E. Day, Director  
Division of Aging Services

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF AGING SERVICES

**Subject:      Supplementation of Room and Board in Assisted Living Facilities**

**PURPOSE:** To establish the criteria under which an Assisted Living (AL) facility, either an Assisted Living Residence or Comprehensive Personal Care Home, may accept Room and Board Supplementation from a third-party on behalf of a Medicaid participant.

**OPERATIONAL PROCEDURES:**

1. Supplementation means additional funds paid to a Medicaid-provider AL facility by a third party on behalf of an individual receiving Medicaid long term care benefits, including individuals enrolled in the Managed Long Term Services and Supports (MLTSS) Comprehensive Medicaid Waiver program, for the purpose of upgrading baseline Medicaid room and board accommodations in an Assisted Living Residence (ALR) or Comprehensive Personal Care Home (CPCH).
2. Supplementation is a transaction between the AL facility and the family and/or friend of the Medicaid participant, and may involve any accommodation within the AL facility.
3. Availability of supplementation shall not be a condition of admission for prospective ALR or CPCH residents or retention of current Medicaid residents.
4. Supplementation is the difference between the published cost of the accommodation designated for the participant, and the published cost of the upgraded accommodation. It is **not** the difference between Medicaid reimbursement and the cost of the upgraded unit.
  - If the Medicaid beneficiary is already assigned to a shared/companion unit, the published fee schedule must show the baseline rate that each person is charged for the unit.
5. Supplementation applies to Room and Board only. Supplementation for services paid for by Medicaid is strictly prohibited.
6. An individual who entered the facility as a private pay client and becomes a Medicaid beneficiary may not be involuntarily relocated from his or her current accommodations to accommodations reserved for Medicaid participants, or be asked to share his current unit, **unless** the Admission Agreement/Medicaid Disclosure handout specifically states that such relocation and/or sharing can occur.
7. Prior to engaging in Room and Board Supplementation, the AL facility shall submit its published fee schedule and the **Provider Enrollment Statement of Intent to Accept Supplementation form (LTC-37)** – formerly called the GO-4 or Appendix A form, to the Division of Aging Services, Quality Assurance Unit (QAU). On this form, the facility shall indicate the usual accommodation available to any Medicaid Waiver participant and the cost per person. The form and fee schedule should be either faxed to The Division of Aging Services Quality Assurance Unit at 609-588-7683 or mailed to the following address:

Department of Human Services  
Division of Aging Services (DoAS)

Quality Assurance Unit  
PO Box 807  
Trenton, NJ 08625-0807

10. Any changes to the published fee schedule shall be submitted to QAU.
11. All cases of individual Room and Board Supplementation will be then be documented on the **Notification of Room and Board Supplementation form (LTC-38)** – formerly called GO-5 or the Appendix B form. Within 15 days of entering this agreement, copies of the form will be:
  - placed in the participant's file at the AL facility;
  - provided to the MCO Care Manager; and
  - submitted to the DoAS Quality Assurance Unit (QAU)
12. The financial arrangement between the AL facility and the third party on behalf of the Medicaid participant shall be recorded in accordance with N.J.A.C. 8:36-6.2(b)4 which states: "Maintain a written record of all financial arrangements with the resident and/or his family, guardian, or designated community agency with copies furnished to the resident."
13. Supplementation presents several issues that may affect the individual's income and Medicaid eligibility.
  - Supplementation is considered unearned income and the amount of the supplementation must be reported to the Social Security Administration for SSI beneficiaries.
  - A person's SSI benefit may be reduced by the amount of the Room and Board Supplementation.
  - Supplementation may result in a person's losing SSI eligibility and therefore losing automatic Medicaid eligibility. In such instances, the Medicaid beneficiary/family would have to apply for Medicaid at the local Board of Social Services/County Welfare Agency.
  - A person's Medicaid benefits may be affected by the Room and Board Supplementation because the Supplementation counts as income.
  - Medicaid approved individuals will need to follow the income regulations found in N.J.A.C 10:71-5.4 Includable income, which state;
    - 12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his or her needs for food, clothing, and shelter at no cost or reduced value. Persons determined to be "living in the household of another" in accordance with N.J.A.C. 10:71-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in the household of another" who receive in-kind support and maintenance shall be considered to have income in the amount of:
      - \$ 264.33 for an individual (2015 standard)

i. In the event the individual/couple can demonstrate that the actual value of in-kind support and maintenance is less than the assigned value, the lesser value shall be counted as unearned income.

ii. The income levels in (a)12 above shall be revised annually to reflect the annual cost-of-living adjustment to the SSI payment standard made by the Social Security Administration in accordance with 42 U.S.C. § 1382f. The income level revisions to (a) 12 above will be published annually as a notice of administrative change in the New Jersey Register.

13. Support and maintenance furnished in-kind (other living situations):

iii. Other nonmedical facilities:

(2) Facility if proprietary or private nonprofit and third party pays: When a proprietary (private for-profit) or private nonprofit facility provides support and maintenance to an individual because a third party pays the facility on that individual's behalf, that individual is receiving in-kind support and maintenance. The value of the in-kind support and maintenance is determined in accordance with (a) 12 above.

14. Individuals who have their Medicaid eligibility redetermined by the County Welfare Agency (CWA) annually will need to report if they are benefitting from in-kind support, specifically Room and Board Supplementation in the AL facility. That support, which is paid directly to the facility from the third party, will be factored into the individual's monthly income at the monthly level of \$264.33 (2015 amount, this figure is adjusted annually by the Social Security Administration). Should this increase cause the individual's income to exceed the established Medicaid income limit for MLTSS members, a Qualified Income Trust will need to be established.

This additional income is included on the Personal Responsibility form (PR-2) and has the effect of reducing the amount of funds available to pay cost share to the AL facility. Thus, the cost share collected by the AL facility is less than the cost share shown on the PR-2 form, and the difference is the amount of the in-kind support and maintenance income.